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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,591

10/24/2003

Gary Peterson

JHM1241

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02/05/2008

PATENT & TRADEMARK SERVICES, INC.

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EXAMINER

LOVELL, LEAH S

ART UNIT

PAPER NUMBER

2885

MAIL DATE

DELIVERY MODE

02/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/691,591

Applicant(s)

PETERSON, GARY

Examiner

LEAH S. LOVELL

Art Unit

2885

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 8, 9 and 11-13 are objected to because of the following informalities:
 - Regarding claim 8, "and" should be removed from the end of line 2 of the claim.
 - Regarding claim 9, "and" should be removed from the end of line 2 of the claim.
 - In claim 11, it is suggested that "and" be removed from the ends of lines 6, 7, and 8 of the claim or that the claim be revised to incorporate all of the limitations of the block into one phrase to clearly and easily identify all limitations to the block. The following is suggested: "...comprising:
a block having a length, a width, and a thickness; two side portions;
and a groove having a floor between said side portions,
a means for producing light in said block, and
a means for securing said block to a bike comprising clipping a spoke in the groove,
wherein said block has two sources for producing light, and
wherein one of said two sources for producing light is an LED powered by a battery in said block, and another of said sources for producing light is a reflective material that said block is made from."
 - Regarding claim 12,

- The semicolon “;” at the end of line 2 of the claim should be replaced with a colon “:”.
 - “wheen” near the end of line 14 of the claim should be replaced with “wherein”.
 - It is also suggested that Applicant consider amending the claim along the lines of the suggestion for claim 11.
 - Regarding claim 13,
 - “wheen” near the end of line 1 of the claim should be replaced with “wherein”.
 - The semicolon “;” at the end of line 2 of the claim should be replaced with a colon “:”.
 - It is also suggested that Applicant consider amending the claim along the lines of the suggestion for claim 11.
2. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 7-9, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US 6,016,101).

In regard to claim 11, Brown discloses a light adapted to be secured to a bike, wherein said light comprises:

a block [20],

said block [20] having a length, a width, and a thickness [length and width can be seen in figure 2; thickness is seen in figure 3],

means [32] in said block [20] for producing light [figure 4],

said block [20] having two side portions [see figure A provided below], and

said block having a groove [column 3, lines 59-61] between said side portions [see figure A provided below], and

said groove having a floor [see figure A provided below], and

means [18, the second half of the housing which mates with the first to secure the device] for securing said block to a bike comprising clipping a spoke in the groove [column 3, lines 55-59], and

wherein said block has two sources [figures 2-4; 32 and 12] for producing light, and

wherein one [32] of said two sources for producing light is an LED powered by a battery in said block, and another of said sources [12] for producing light is a reflective material that said block is made from [column 3, lines 61-62].

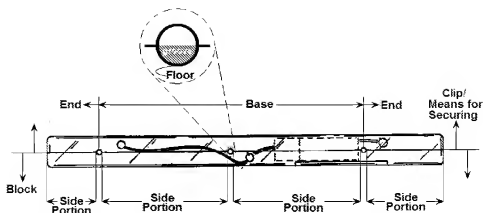


FIGURE A: Figure 3 of Brown that has been modified to indicate different portions of the light. A magnified view of the groove has been added to indicate the groove and its floor.

In regard to claim 7, Brown discloses said means [26] on each of said two ends, which engage said block, engage said floor of said block [the hardware 26 which engages the block also engages the floor of the groove of the block since it presses the spoke against the floor of the groove].

In regard to claim 8, Brown discloses the light in combination with a wheel [16], and said wheel [16] has a plurality of spokes [14], and said block [20] is positioned on one side of said spokes [figure 3; figure A above], and said clip [18] is positioned on an opposite side of said spokes [figure 3; figure A above].

Regarding claim 9, Brown discloses at least two of said plurality of spokes cross, and one of said two ends of said clip is positioned on one side of where said two of said plurality of spokes cross, and another of said two ends is positioned on another side of where said two of said plurality of spokes cross. It is inherent in the art that a bicycle wheel has a plurality of spokes which extend from an outer rim of the wheel to an inner hub of the wheel wherein the spokes appear to be in a single-file line along the outer rim

of the wheel while the spokes appear to cross along the inner hub of the wheel when viewed from the side. It is also inherent that the light device of Brown will have one end on one side of where a plurality of spokes cross and a second end on of another side due to its length and position.

In regard to claim 13, Brown discloses a light adapted to be secured to a bike, wherein said light comprises:

a block [20],

said block [20] having a length, a width, and a thickness [length and width can be seen in figure 2; thickness is seen in figure 3],

means [32] in said block [20] for producing light [figure 4]
comprising a battery in the block which powers an LED in the block,

said block [20] having two side portions [see figure A provided above], and

said block having a groove [column 3, lines 59-61] between said side portions [see figure A provided above], and

said groove having a floor [see figure A provided above], and

means [18, 26] for securing said block to a bike comprising
securing a spoke in the groove [column 3, lines 55-59], and

wherein said means [18, 26] for securing said block to a bike
comprises a clip [18], said clip having two ends and a base [indicated in figure A above], each of said two ends having means [26] for engaging said block with the spoke in the groove [figures 2 and 3]; and

wherein said block [20] comprises a light absorbing [38] and light emitting compound [32].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (US 6,016,101) in further view of Peterson et al. (US 6,186,635).

Regarding claim 12, Brown discloses a light adapted to be secured to a bike, wherein said light comprises:

a block [20],

said block [20] having a length, a width, and a thickness [length and width can be seen in figure 2; thickness is seen in figure 3],

means [32] in said block [20] for producing light [figure 4],

said block [20] having two side portions [see figure A provided below], and

said block having a groove [column 3, lines 59-61] between said side portions [see figure A provided below], and

said groove having a floor [see figure A provided below], and

means [18, 26] for securing said block to a bike by receiving a spoke in said groove and clamping the spoke in the groove with a clip [26], and

wherein said block has two sources [figures 2-4; 32 and 12] for producing light,

and wherein a second source of light is a battery [30; column 4, line 6] in the block which powers a light emitting diode (LED) [32] in the block [figures 2 and 3].

However, Brown does not disclose the composition of the reflective material which the housing is made of. Peterson et al. discloses a first source [3] of light is a material of the block comprises a compound comprising a ration of six parts of phosphorescent brightener and four parts of fluorescent coloring and four drops of mineral oil to 100 parts of polyvinylchloride [column 3, lines 26-33].

It would have been obvious to one of ordinary skill in the art at the time of the invention to make the reflector of Brown out of the materials of Peterson, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. One would be motivated to do so because the composition disclosed by Peterson is well-known in the art to produce highly visible reflective surfaces which are desired for an effective indication light on a bike.

Response to Arguments

7. Applicant's arguments with respect to claims 7-9 and 11-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are cited as teaching a lamp clipped to at least one spoke of a bicycle wheel:

- Thomas et al. (US 4,796,972)
- Leon (US 5,283,547)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEAH S. LOVELL whose telephone number is (571)272-2719. The examiner can normally be reached on Monday through Friday 8 a.m. until 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leah S Lovell/
Examiner, Art Unit 2885
25 January 2008

**/Jong-Suk LEE/
Supervisory Patent Examiner, Art Unit 2885**